

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Gary Shimun, Town Administrator / 797-1030

PREPARED BY: Phillip R. Holste, Program Manager / 797-1041

SUBJECT: Resolution

AFFECTED DISTRICT: 2

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO AN EXISTING LEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND AMERICAN TOWER CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 6911 ORANGE DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: On November 19, 1997, the Town signed an agreement (R97-406) with Omnipoint Communication DEF Operation, Incorporated to lease space for a monopole cellular tower at the Public Works Compound, 6911 Orange Drive. Subsequently, Omnipoint was purchased by American Tower Delaware Corporation. This initial agreement allowed two co-locations or three carriers on the monopole and stated that the Town would receive 50% of co-location revenue.

On February 7, 2007, a first amendment to the initial agreement was approved (R2007-31). This amendment provided for the placement of three (3) co-locations or a total of four (4) carriers. It also leases an additional 192 square feet of ground space to American Tower and granted permission to the addition of MetroPCS to the monopole.

The proposed second amendment provides for the placement of a five (5) co-locations or six carriers on the tower. It also leases an additional 360 square feet of ground space to American Tower and grants permission to the addition of Verizon Wireless to the existing monopole. At this time, American Tower does not have a signed agreement with Verizon Wireless. Therefore, this amendment gives the Town Council final approval of any collocation agreement between American Tower and any future carrier.

PREVIOUS ACTIONS: R97-406 (Original lease agreement), R2007-31 (First amendment to agreement)

CONCURRENCES: Not applicable

FISCAL IMPACT: Yes

Has request been budgeted? n/a

Additional Comments: The Town will receive 50% of co-location revenue. This revenue is estimated at \$12,000 per year.

RECOMMENDATION(S): Motion to approve the resolution

Attachment(s): Resolution, Exhibit A: Second Amendment, Exhibit B: Memorandum of Lease, Exhibit C: Structural Analysis

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO AN EXISTING LEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND AMERICAN TOWER CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 6911 ORANGE DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, LESSOR and OMNIPOINT entered into that certain Lease Agreement (“Agreement” dated November 19, 1997, which by this reference is incorporated herein and made a part hereof, whereby LESSOR leased to OMNIPOINT that certain real property in Broward County, Florida, located at 6911 Orange Drive, Davie, FL, more specifically described in and substantially shown as outlined on Exhibit “A” attached hereto and made a part hereof (“Property”); and

WHEREAS, LESSOR and TENANT previously amended the Agreement pursuant to the First Amendment to the Lease Agreement dated February 7, 2007 to allow four (4) carriers and lease an additional 360’ of ground space; and

WHEREAS, American Tower has requested an amendment to the lease to allow six (6) carriers on the tower and an additional 360 feet of ground space; and

WHEREAS, an engineer licensed in the State of Florida has certified that the existing tower has sufficient loading capacity for the additional antennae; and

WHEREAS, there is sufficient loading capacity on the tower, and the addition of a fifth and sixth antennae is consistent with the goal of collocation on towers to reduce the number of towers.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the recitals set forth above are true and correct and are made a part of this resolution.

SECTION 2. The Town Council of the Town of Davie hereby approves the aforementioned amendment and authorizes the Mayor to execute the proposed second amendment, a copy of which is attached as Exhibit "A", on behalf of the Town.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2007.

MAYOR/COUNCILMEMB

ER
ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2007.

EXHIBIT A: PROPOSED SECOND AMENDMENT

**SECOND AMENDMENT TO
LEASE AGREEMENT**

THIS SECOND AMENDMENT TO LEASE AGREEMENT ("Second Amendment") is entered into on the _____ day of _____, 2007, by and between **Town of Davie**, a municipal corporation of the State of Florida (hereinafter referred to as "Lessor") and **Unisite/Omnipoint FL Tower Venture, LLC**, a Delaware corporation, its successors and/or assigns (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor and Omnipoint Communications DEF Operations, Inc. predecessor-in-interest to Lessee, executed and entered into that certain Lease Agreement dated November 19, 1997 (the "Lease"), as amended by that certain First Amendment to Lease Agreement, by and between Lessor and Lessee, dated February 7, 2007, (the "First Amendment") for the purpose of installing, operating and maintaining a communications facility and other improvements on the Site (as described in Exhibit A attached hereto and incorporated by reference herein); and

WHEREAS, Lessor and Lessee desire to amend certain provisions in the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Second Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Lessor and Lessee hereby agree and contract as follows:

1. Lessor hereby leases to Lessee an additional three hundred sixty (360) square feet contiguous to the leased area as set forth on Exhibit B attached hereto and incorporated by reference herein. Lessor agrees to cooperate with Lessee as necessary to obtain appropriate zoning, permitting and government approvals. This shall include, but is not limited to, additional uses of Lessor's property as needed to meet any jurisdictional fall zone and other tower related stipulations. If Lessee ceases use of this additional ground space, said space shall revert back to Lessor. Lessee shall have a period of six (6) months to place another wireless carrier within this space prior to the space reverting back to the use of Lessor. Upon the end of said six (6) month period, Lessor shall notify Lessee in writing that it intends to resume use of this area. Any consideration due to Lessor as a result of lease of this space shall cease as of the effective termination date of any tenant agreement applicable to use of said space.
2. Pursuant to the terms of the Lease, as consideration for use of the additional ground space comprised of 360 square feet contiguous to the leased area, Lessee shall pay to Lessor fifty percent (50%) of the gross receipts derived from adding additional tenants to the tower site by utilizing this area. Additionally, Lessee hereby agrees to provide to Lessor, upon request, copies of any tenant agreements for the telecommunications facility as they are directly related to their proportionate share of the revenue received by Lessee. Lessee hereby acknowledges that Lessor (specifically the Town Council) is to have final approval with regard to any collocation agreement between Unisite/Omnipoint FL Tower Venture, LLC and any other future carrier and this Second Amendment is contingent upon such approval by the Davie Town Council. If at any such time Lessee's use of the additional area shall cease, any revenue due to Lessor shall cease as of the effective date Lessee is no longer receiving rents derived from the use of said space.

3. Pursuant to Paragraph 7 and Paragraph 17 of the Lease, Lessor hereby consents to the addition of another wireless carrier to the tower, Verizon Wireless Personal Communications L.P. ("Verizon Wireless"), and Lessee hereby affirms that as of the date of this First Amendment, Verizon Wireless's proposed rental rate is to be Two Thousand Four Hundred and No/Dollars (\$2400.00) per month, of which fifty percent (50%) of the receipt of would benefit Lessor upon the commencement of Verizon Wireless's sublease taking effect at the Site. If at any time during the term of this Lease Verizon Wireless shall cease its tenancy, any revenue due to the Lessor shall be reduced proportionately.
4. Lessee hereby affirms that Verizon Wireless will be the sixth customer installed at the Site.
5. Paragraph 4 of the First Amendment is deleted in its entirety and replaced with: "**Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, signed receipt requested, or by First Class United States mail, certified, return receipt requested, addressed as follows:

Lessor: Town of Davie
6591 Orange Dr.
Davie, FL 33314
Attn: Phillip Holste

Lessee: American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management

With a copy to: American Tower
116 Huntington Ave.
Boston, MA 02116
Attn: Legal

The parties may substitute recipient's names and addresses by giving at least thirty (30) days notice. Rejection or refusal to accept delivery of any notice, or the inability to deliver any notice because of a changed address of which no notice was given, shall be deemed to be receipt of any such notice."

6. Lessor hereby acknowledges receipt, review and acceptance of the structural analysis of the telecommunications facility a copy of which is attached hereto as Exhibit C.
7. Lessee hereby agrees to comply with the current landscaping code of the Town of Davie and to install a proper landscaping buffer around the compound. Lessee additionally agrees to comply with all current zoning requirements.
8. Lessee hereby agrees to make best efforts to ensure that future collocations on the tower will be flush-mounted and they will have their own generator on-site and a contract for fuel delivery in the event of a disaster.
9. Lessor represents and warrants that as of the date of this execution, there are no uncured defaults under the terms of the Lease and that the Lease is in full force and effect.

10. All other terms of the Lease except as may be amended herein, or as may be in conflict with the provisions of this Second Amendment, shall be deemed incorporated into this Second Amendment.
11. Except as amended herein, all terms, conditions, provisions, covenants and agreements contained in the Lease are hereby ratified and confirmed in their entirety. The terms used herein and not otherwise defined in this Second Amendment shall have the same meaning as set forth in the Lease.

[SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day first above written.

LESSOR:
The Town of Davie,

WITNESSES:

By:
Its:

Signature
Print Name: _____

Attest:

TOWN CLERK

Signature
Print Name: _____

APPROVED THIS ____ DAY OF _____, 2007

State of

County of _____)

On _____ before me, _____ (here insert name), a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

LESSEE:

Unisite/Omnipoint FL Tower Venture, LLC

By: Unisite, LLC, its manager

Jason D. Hirsch
Vice President, Land Management

Signature
Print Name: _____

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this the ____ day of ____ 200_, before me, _____, the undersigned Notary Public, personally appeared Jason D. Hirsch, proved to me through satisfactory evidence of identity, in which he is personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Vice President, Land Management, of Unisite/Omnipoint FL Tower Venture, LLC, on behalf of the lessee / limited liability company.

Print Name:
Notary Public
Commonwealth of Massachusetts
Commission Expires _____

EXHIBIT A

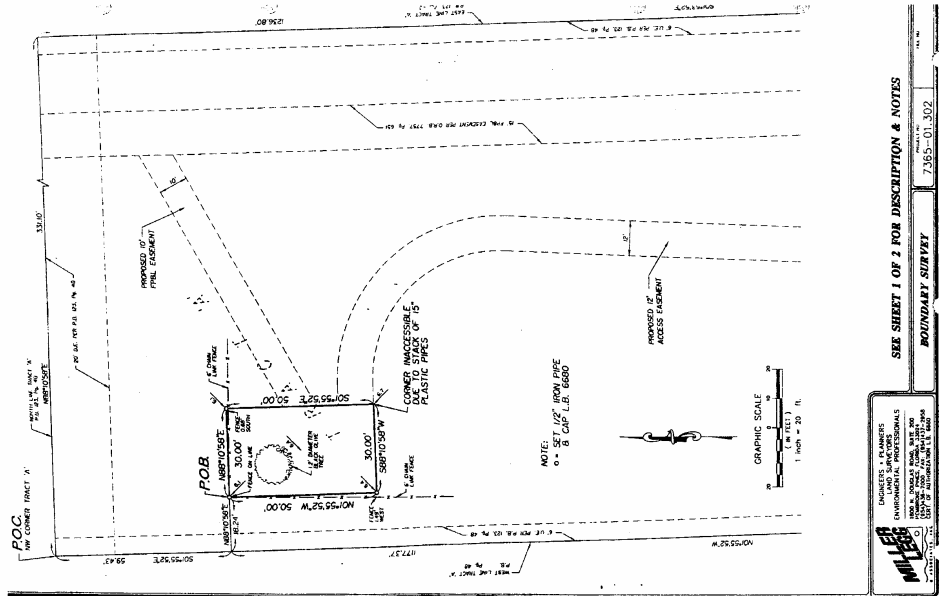


EXHIBIT B

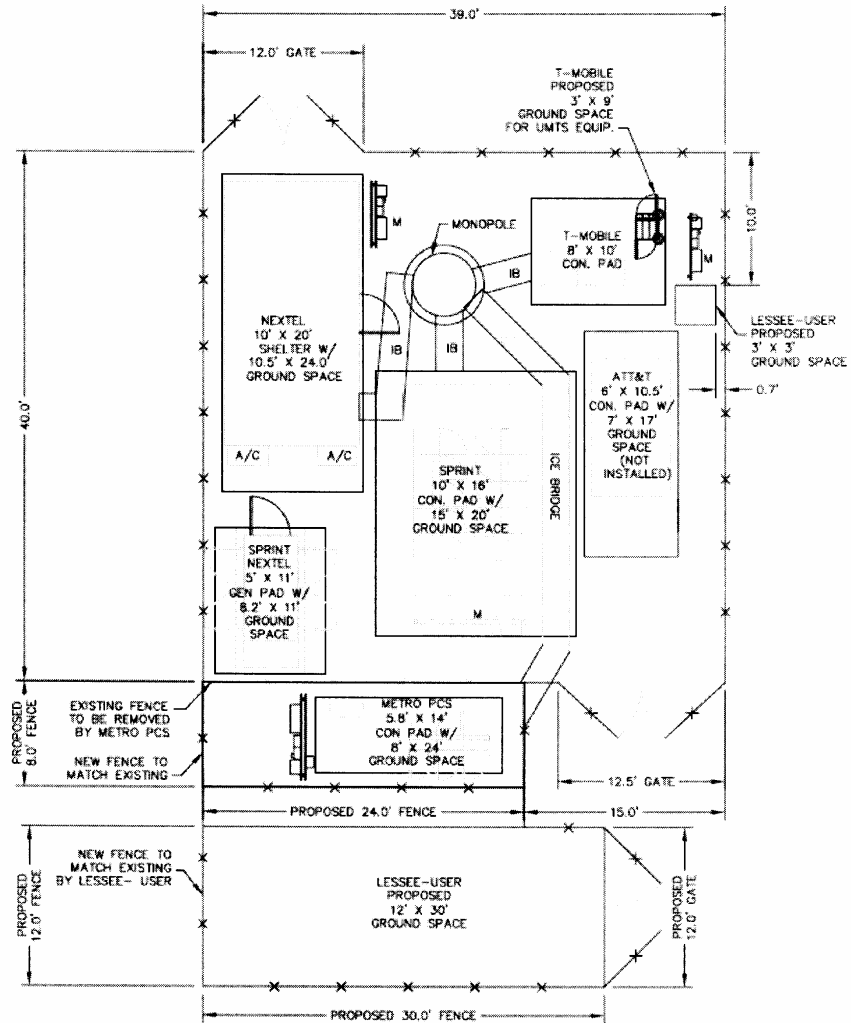


Exhibit B: Memorandum of Lease

Prepared by and Return To:
Attorney Justin White
American Tower Corporation
10 Presidential Way
Woburn, M A 01801
Attn: Land Management
ATC Site # 91540
ATC Site Name: Davie Public Works

MEMORANDUM OF LEASE

This **MEMORANDUM OF LEASE** ("Memorandum") is entered into on the _____ day of _____, 2007, by and between **Town of Davie**, a municipal corporation of the State of Florida (hereinafter referred to as "Lessor") and **Unisite/Omnipoint FL Tower Venture, LLC.**, a Delaware corporation, its successors and/or assigns (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor and Omnipoint Communications DEF Operations, Inc. predecessor-in-interest to Lessee, executed and entered into that certain Lease Agreement dated November 19, 1997 (the "Lease"), as amended by that certain First Amendment to Lease Agreement, by and between Lessor and Lessee, dated February 7, 2007, (the "First Amendment") for the purpose of installing, operating and maintaining a communications facility and other improvements on the Site (as described in Exhibit A attached hereto and incorporated by reference herein); and

WHEREAS, Lessor and Lessee desire to give public notice of certain provisions in the Lease.

NOW, THEREFORE, in consideration of the Lease and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. The terms and conditions of said Lease are incorporated into this Memorandum by reference.
2. Premises: Subject to the terms of the Lease, Lessor has leased to Lessee a portion of the real property described in Exhibit A attached hereto and incorporated herein by reference. Lessor hereby leases to Lessee an additional three hundred sixty (360) square feet contiguous to the leased area as set forth on Exhibit B attached hereto and incorporated by reference herein. Lessor agrees to cooperate with Lessee as necessary to obtain appropriate zoning, permitting and government approvals.
3. This Memorandum is not a complete summary of the terms and conditions contained in the Lease. Provisions in the Memorandum shall not be used in interpreting the Lease provisions. In the event of a conflict between this Memorandum and the Lease, the Lease shall control.

[SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day first above written.

LESSOR:
The Town of Davie,

WITNESSES:

By:
Its:

Signature
Print Name: _____

Attest:

TOWN CLERK

Signature
Print Name: _____

APPROVED THIS ____ DAY OF _____, 2007

State of

County of _____)

On _____ before me, _____ (here insert name), a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

LESSEE:

Unisite/Omnipoint FL Tower Venture, LLC

By: Unisite, LLC, its manager

Jason D. Hirsch
Vice President, Land Management

Signature
Print Name:_____

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this the _____ day of _____ 200_, before me, _____, the undersigned Notary Public, personally appeared Jason D. Hirsch, proved to me through satisfactory evidence of identity, in which he is personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Vice President, Land Management, of Unisite/Omnipoint FL Tower Venture, LLC, on behalf of the lessee / limited liability company.

Print Name:
Notary Public
Commonwealth of Massachusetts
Commission Expires _____

SEE SHEET 1 OF 2 FOR DESCRIPTION & NOTES

BOUNDARY SURVEY

WILCOX
ASSOCIATES, INC.

ENGINEERS • PLANNERS
LAND SURVEYORS
ENVIRONMENTAL PROFESSIONALS

18000 N. DOUGLAS ROAD, SUITE 200
POMEREO PARK, FLORIDA 32624
(407) 255-1100 FAX: (407) 255-2958
EPA # OF AUTHORIZATION: IN 4660

EXHIBIT B

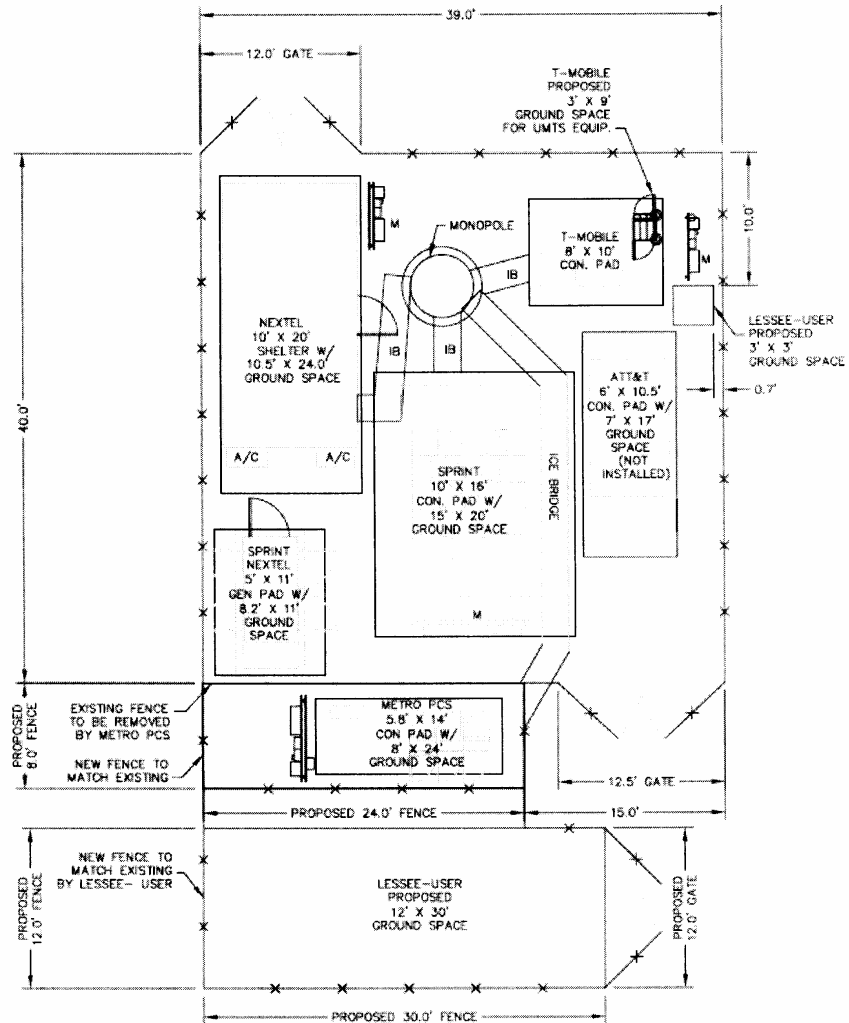


EXHIBIT C: STRUCTURAL ANALYSIS

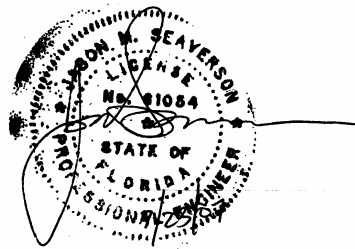


Structural Analysis Report

Structure : 138 ft Summit Manufacturing Monopole
ATC Site Name : Davie Public Works, FL
ATC Site Number : 91540
Proposed Carrier : Verizon
Carrier Site Name : ATC Davie
Carrier Site Number : 68471
County : Broward
Engineering Number : 40714523
Date : July 23, 2007
Usage : 87%
Portholes Required : No

Submitted by:
Michael Davenport, E.I.
Design Engineer

American Tower Engineering Services
400 Regency Forest Drive
Cary, NC 27518
Phone: 919-468-0112



Introduction

The purpose of this report is to summarize results of the structural analysis performed on the 138 ft. Summit Manufacturing Monopole located at 6911 Orange Dr., Fort Lauderdale, FL 33314, Broward County (ATC Site # 91540). The tower was originally designed and manufactured by Summit Manufacturing (Paul J. Ford Job No. 29297-718, dated November 7, 1997).

Analysis

The tower was analyzed using Semaan Engineering Solutions, Inc., Software. The analysis assumes that the tower is in good, undamaged, and non-corroded condition.

Basic Wind Speed: 140.0 mph (3-second gust)
 Radial Ice: No Ice Load Considered
 Code: TIA/EIA-222-G / 2004 Florida Building Code with 2005 and 2006 Supplements

Antenna Loads

The following antenna loads were used in the tower analysis.

Existing Antennas

Elev. (ft)	Qty	Antennas	Mount	Coax	Carrier
140.0	8	RFS ATMAP1412D-1A20	Flat Platform with Handrails	(12) 1 1/4"	T-Mobile
	12	RFS APXV18-206517-C		(6) 1 5/8"	
130.0	6	EMS RR65-18-02DP	Flat Low Profile Platform	(12) 1 5/8"	Sprint
105.0	6	EMS RR33-20-XXDPL4	Round T-Arms	(12) 1 5/8"	Metro PCS
95.0	6	Nokia CS72993.07	Round Platform with Handrails	(12) 1 5/8"	Cingular
	12	48" x 12" Panels			
80.0	3	72" x 12" Panels	Round Low Profile Platform	(12) 1 5/8"	Nextel
	6	TTA			
	3	EMS RV65-12-00DBL			
	3	Decibel DB844H90E-XY			
	3	Decibel 844G90VTA-SX			

Proposed Antennas

Elev. (ft)	Qty	Antennas	Mount	Coax	Carrier
120.0	6	Antel BSA-185065/12CF	Round T-Arms	(12) 1 5/8"	Verizon

Install proposed coax inside monopole.

Results

The maximum structure usage is: 87%

Additional exit and/or entry ports may be required to accommodate the running of the proposed lines to the proposed antennas. These additional ports **may not** be installed without installation drawings providing the location, size and welding requirements of each port.

To ensure compliance with all conditions of this structural analysis, port installation drawings shall be provided by American Tower's Engineering Department under a subsequent project.

Pole Reactions	Original Design Reactions	Original Design Reactions w/1.35 Multiplier	Current Analysis Reactions	% Of Design
Moment (ft-kips)	4,365.0	5,892.8	6,180.2	105
Shear (kips)	46.5	62.8	66.2	105

The structure base reactions resulting from this analysis are acceptable when compared to the reactions shown on the original structure drawings, therefore no modification or reinforcement of the foundation will be required.

Conclusion

Based on the analysis results, the structure meets the requirements per ANSI/TIA-222-G and 2004 FBC with 2005 and 2006 supplement standards. The tower and foundation can support the existing and proposed antennas with the TX line distribution as described in this report.

If you have any questions or require additional information, please call 919-466-5147.